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NOTES AND DISCUSSIONS

PROFESSOR REID ON CICERO

ATT. xiii. 33. 1 and *FAM.* xvi. 23. 1

The two passages are as follows:

Att. xiii. 33. 1 (dated June 3, 45): "O neglegentiam miram! Semelne putas mihi dixisse Balbum et Faberium professionem relatam? Qui etiam eorum iussu miserim qui profiteretur; ita enim oportere dicebant. Professus est Philotimus libertus. Nosti credo librarium. Sed scribes et quidem confectum."

Fam. xvi. 23. 1 (dated May 27, 44): "Tu vero confice professionem, si potes; etsi haec pecunia ex eo genere est ut professione non egeat. Verum tamen!"

It is seldom that so much depends on interpretation. If the view I have taken is correct,¹ that the *professiones* mentioned here are annual returns of property and are to be identified with the returns provided for in the *lex Iulia municipalis*,² we are well on the road to proving that Caesar introduced into Rome (and into the rest of Italy) the yearly property registration in vogue in Egypt, and, in fact, reorganized the Roman census. Professor Reid³ thinks that my view is mistaken. He admits that the passages have the same context and relate to some legislation of Caesar, but maintains there are at least two more probable explanations. In the first he supposes a reference to the *lex Iulia sumptuaria*, which placed a tax on tombs equal to the amount of expense incurred above the legally permitted limit. As Cicero at this time was intent on a monument to his daughter, the *professiones* are best understood as declarations before an official respecting its cost. In fact, in the words, "haec pecunia ex eo genere est ut professione non egeat," we have "the precise amount to be expended in excess of that fixed by the law." This hypothesis leaves several things unaccounted for, among them: (1) how this "precise amount" was arrived at when Cicero was uncertain what the expense would be, (2) the difficulty (implied in

¹ The discussion has arisen from my article, "The Professiones of the Heracleian Tablet," in the *Journal of Roman Studies*, V, 125-37. A fuller statement of certain points may be found in the writer's "Ciceronian and Heracleian Professiones," *Classical Quarterly*, October, 1917.

² The text is conveniently consulted in Bruns' *Fontes* (7th ed.), pp. 102-3. I assume for the moment its Caesarian authorship. If my contention is right, both this and the date are established beyond question.

³ "The So-called Lex Iulia Municipalis," *Jour. Rom. Stud.*, V, 207 ff.

the letter to Tiro) of filling out the return, (3) the requirement of two returns just a year apart, (4) the fact that the reports were made before any expense had been incurred. But, aside from this, the hypothesis is disproved by the certainty that the monument was not a tomb, but a shrine, and as such exempt from the sumptuary law. (Even Caesar would hardly put a tax on temples!) It is true that from Tullia's death in February¹ till the following May, Cicero contemplated a tomb, which he then changed to a shrine. One reason for the change (which was coincident with his finding out about the law)² was to escape the legal penalty, the other the better to secure his daughter's apotheosis. The evidence for this is Cicero's own statement. "I am determined," he says,³ "to build a shrine and to avoid all likeness to a tomb, not so much on account of the penalty of the law as most effectively to accomplish ἀποθέωσις." Professor Reid seeks to avoid this fatal objection by supposing that Cicero was mistaken about the law. Instead of being guided by the evidence in the case, Professor Reid would explain it away.

Professor Reid's alternative solution is to relate the passages to Cicero's supposed procedure under the debtors' act⁴ to bring about a settlement of his claim against Faberius, to whom he had lent a sum of money some months previous. Being in need of money for the shrine, he placed on public file a statement of the debt—the *professio* of June 3. This statement (by chance) came into the hands of Faberius, himself a public *scriba*, who, seeing that it was his own debt, neglected to enter it on the records. He also deceived Balbus, whose statement that it had been recorded is thus accounted for. A year later⁵ Cicero, finding that his claim did not come within the law (his second legal blunder, by the way), wrote to Tiro⁶ that "this particular sum did not require registration." And yet in the same breath he assents to the registration. But this is not more strange than that Cicero in the original declaration should look for guidance in the procedure to his debtor. He was not, in fact, unacquainted with the provisions of the law. As early as July 46, in a letter to Paetus,⁷ he makes them the basis of some elaborate irony, and on March 17, 45, he writes to Atticus⁸ of settling his debt to Ovia by a transfer of land under the same act.

It is an assumption (a very necessary one, indeed) of this hypothesis that Faberius was a *scriba* in the sense that he copied public records or had charge of such work. As we know, he was Caesar's secretary⁹ and had but recently returned from this service in Spain¹⁰ to assist Balbus in directing

¹ Schmidt, *Briefwechsel*, p. 271.

⁶ *Fam.* xvi. 23. 1.

² *Att.* xii. 35. 2.

⁷ *Fam.* ix. 18. 4.

³ *Att.* xii. 36. 1.

⁸ *Att.* xii. 21. 3.

⁴ Carried by Caesar in 49.

⁹ Appian, *B.C.* iii. 1. 5.

⁵ May 27, 44.

¹⁰ Cic. *Att.* xviii. 28. 1; Schmidt, "Faberius," in *Commentationes Fleckeisenianae*, p. 229.

affairs in Italy. He had a splendid house on the Aventine.¹ That such a man should occupy himself with clerical labor is almost ludicrous. It is true Vitruvius speaks of him as "Faberius scriba,"² but Professor Reid overlooks the fact (as some lexicographers have done) that the word is also used of the secretary to a high official. Cicero refers to his own secretary during his governorship of Cilicia as *scriba meus* and to C. Septimius (who was charged by Vettius with having brought him a dagger from the consul Bibulus) as *scribam Bibuli*.³ This was undoubtedly the title of Caesar's secretary, so that there need be no further difficulty in identifying Vitruvius' *scriba* with Appian's *ὁ γραμματεὺς*.

A second assumption of Professor Reid's interpretation is that Faberius' debt was still unsettled on May 27, 44. Cicero does not state definitely when the settlement took place. It was probably, as Schmidt has shown,⁴ in the week following May 30, 45. At all events the debt is not mentioned further, which is sufficient evidence that it did not drag on for a year longer, especially as Cicero continued to cherish his plan for the shrine,⁵ and to be in need of money for this purpose.

Notwithstanding his interest in Faberius, Professor Reid has apparently overlooked Cicero's letter of May 30.⁶ Atticus had arranged a tentative settlement with Faberius which, however, was unsatisfactory in some particulars. He then referred the matter to Cicero, who on May 30 wrote to express his approval of the arrangement, though the details were still to be settled. Four days later, on June 3 (on Professor Reid's theory), Cicero announces to Atticus that with the co-operation of Faberius and Balbus he had taken recourse to the law, implying that he had been so engaged for several days and that Atticus had thought him remiss. In the face of such contradiction and absurdity the collapse of the whole hypothesis is inevitable.

As both of Professor Reid's interpretations seem untenable, I may indicate summarily the grounds of my own position. The intervention of Balbus and Faberius in *Att.* xiii. 33. 1 makes it certain that some recently passed law of Caesar's is in question. If we examine the *professiones* which Cicero was required to make out and file, we find they had the following external features: they were presented at Rome; they must be handed in by a fixed date (hence the anxiety of Atticus and of Cicero himself); they could be (and in this case were) made by proxy (by Philotimus in the first instance and by Tiro in the second); they were entered in the public records; they were periodical, that is to say, annual (the two returns being made just a year apart and under almost precisely similar circumstances). The

¹ Vitruvius, vii. 9. 2.

² *Ibid.*

³ *Fam.* v. 20. 1, 2, 3, 4, 5; *Att.* ii. 24. 2. Cf. *Verr.* i. 157; ii. 170; iii. 181.

⁴ *Op. cit.*, p. 236; *Briefwechsel*, p. 297.

⁵ Cf. *Att.* xv. 15. 3 (dated June 5, 44).

⁶ *Att.* xiii. 3.

subject-matter of the *professiones* was property. This is revealed in Cicero's statement to Tiro: "*haec pecunia ex eo genere est ut professione non egeat*," in which *pecunia* is the regular word for property, especially in its relation to the census.¹ What, now, was the purpose of the returns? Being made annually and relating to property, they were evidently required by the government for the sake of the information they contained. In other words, they were census returns to be used as the basis of administration. The significance of this is that similar *professiones* are provided for in Caesar's Municipal Law. If, then, Cicero is referring in the two letters to some legislation of Caesar, it must be to this. Unless we are willing (as some critics seem to be) to substitute mere possibilities for known and admitted facts, no other conclusion is possible. With this connection firmly established, it is possible to proceed to some interesting and valuable conclusions, among them, the hitherto unrecognized fact that Caesar completely reorganized the Roman census.

JEFFERSON ELMORE

STANFORD UNIVERSITY

HORACE, *SERMONES* ii. l. 34-39

Sequor hunc, Lucanus an Apulus anceps,
nam Venusinus arat finem sub utrumque colonus,
missus ad hoc, pulsus, vetus est ut fama, Sabellis,
quo ne per vacuum Romano incurreret hostis,
sive quod Apula gens seu quod Lucania bellum
incuteret violenta.

The general sense of this passage is clear enough; the particular purpose Horace had in mind in writing this apparent digression (note the resumptive *sed* in 39) has been admirably stated by Wickham. But editors have long felt difficulty over one detail, *quo ne* (37). It will suffice to cite the unsatisfactory notes of two of the most recent editors of the *Sermones*. In 1909 Professor Morris wrote on *quo ne* only the following words: "for *ut ne* or *ut eo ne*; but this use of *quo* is without a parallel." In 1910 Heinze, in Kiessling, *Q. Horatius Flaccus Satiren*⁴, printed this note: "*quo ne* singular für *ut eo ne*, idem *eo* im Sinne *ea re* das voraufgegangene *missus ad hoc* wieder aufnimmt: 'damit auf diese Weise nicht. . . .'"

For a very much better discussion of the passage we may turn to the note in Arthur Palmer's edition of the *Satires*. Professor Palmer also suggested a perfectly simple explanation of the passage, though he did not, in my judgment, make as good a defense of his suggestion as it is easily possible

¹ Cf. Cic. *Leg.* iii. 3. 7; Livy xxix. 37. 7; *Lex Iulia municipalis* v. 147; Greenidge, *Roman Public Life*, p. 222.